STATE OF MICHIGAN

COURT OF APPEALS

UNPUBLISHED
March 21, 2013

In the Matter of L. M. BURKE, Minor.

No. 311817
Wayne Circuit Court
Family Division
LC No. 07–468314–NA

Before: STEPHENS, P.J., and HOEKSTRA and RONAYNE KRAUSE, JJ.

MEMORANDUM.

Respondent appeals as of right the order terminating his parental rights to the minor child under MCL 712A.19b(3)(g), (h), (j), and (l). Because we conclude that the trial court did not clearly err by finding clear and convincing evidence to prove at least one statutory ground for termination or by determining termination was in the child's best interests, we affirm.

The Department of Human Services (DHS) filed a petition seeking temporary custody of the minor child on January 11, 2011, after the child was born with cocaine in her system. The original petition named a different individual as the minor child's father. Respondent was eventually identified as the minor child's father, and located at a correctional facility where he was imprisoned after being convicted of first-degree home invasion. Respondent appeared at all subsequent proceedings by telephone, the first of which was a dispositional review and permanency planning hearing on February 23, 2012. Respondent's parental rights were eventually terminated after a hearing on July 16, 2012.

On appeal, respondent argues that the trial court clearly erred by terminating his parental rights because he was not given a chance to meaningfully participate in the proceedings due to the failure to immediately identify him as the father and due to his incarceration.

To terminate parental rights, the trial court must find that the petitioner has proven at least one of the statutory grounds for termination by clear and convincing evidence. MCL 712A.19b(3); MCR 3.977(H)(3)(a); *In re Sours Minors*, 459 Mich 624, 632; 593 NW2d 520 (1999). We review for clear error a trial court's decision terminating parental rights. MCR 3.977(K); *In re Trejo Minors*, 462 Mich 341, 356-357; 612 NW2d 407 (2000); *In re Sours Minors*, 459 Mich at 633. A finding is clearly erroneous if, although there is evidence to support it, this Court is left with a definite and firm conviction that a mistake has been made. *In re JK*, 468 Mich 202, 209-210; 661 NW2d 216 (2003).

We conclude that the trial court did not clearly err by finding that petitioner established at least one statutory ground for termination of respondent's parental rights by clear and convincing evidence. *In re Trejo Minors*, 462 Mich at 354. Nor did the trial court clearly err by finding that termination of respondent's parental rights was in the child's best interests. MCR 3.977(K); *In re Rood* 483 Mich 73, 90-91; 763 NW2d 587 (2009).

Respondent does not dispute that his parental rights to the child's siblings were involuntarily terminated previously. That alone is a ground to not only terminate respondent's parental rights under MCL 712A.19b(3)(l), but to do so without first making reasonable efforts to reunify the child and her family under MCL 712A.19a(2)(c). *In re Smith*, 291 Mich App 621, 623; 805 NW2d 234 (2011). Furthermore, respondent does not challenge any of the statutory grounds on which termination was based.

Instead, relying on *In re Mason*, 486 Mich 142, 152; 782 NW2d 747 (2010) and *In re Rood*, 483 Mich at 76, respondent alleges that he was denied his right to meaningful involvement in the reunification process and during the proceedings below. Respondent's reliance on both *Mason* and *Rood* is misplaced. Neither *Mason* nor *Rood* involved the prior involuntary termination of parental rights to the child's sibling as a ground for termination, and therefore, MCL 712A.19a(2)(c)'s exception did not apply. Furthermore, the failure to engage the father in child protective proceedings in those cases was egregious. In this case, respondent here was engaged in the proceedings from the time he was first identified as a putative father. He was appointed counsel and was present at every proceeding held thereafter, including at the termination proceeding. Finally, even though petitioner was not required to include respondent in reunification efforts, MCL 712A.19a(2)(c); *In re Smith*, 291 Mich App at 621, it did so by communicating with him via telephone and by notifying him of programs available to him in prison.

Affirmed.

/s/ Cynthia Diane Stephens
/s/ Joel P. Hoekstra
/s/ Amy Ronayne Krause